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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
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| 10/058,491      | 01/28/2002  | Gerhard Blessing     | 3201-216 (D4700-00227) | 2282             |

8933 7590 11/21/2003

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EXAMINER

HWU, DAVIS D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3752

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No

10/058,491

Applicant(s)

BLESSING ET AL.

Examiner

Davis Hwu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 10 recites the limitation "the seal" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haverstraw et al.

The patent to Haverstraw et al. discloses a shower head having a housing, a jet disk terminating the housing (see Figure 5), at least two groups of jet outlets, whereof one group comprising nozzles 128 delivers an aerated jet, whereas a second group of jet outlets can be switched in by a switching device. Although Haverstraw et al. do not disclose the aerated jet being delivered continuously, it would be obvious to one having ordinary skill in art that the device of Haverstraw et al. can be switched to deliver the

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aerated jet continuously since the output modes can be selected to spray combinations of the various spray modes (Column 14, lines 18-22), wherein both groups of jet outlets are connected to in each case one chamber 156 and 236 in the housing and the switching device opens or closes the water inlet into the chamber associated with the jet outlets (Column 6, lines 64-66) as recited in claims 2 and 3. Aeration takes place within the housing and air is sucked through an opening 130 in the jet discharge disk (see Figure 5) and a tubular projection extends into the chamber 156 from the opening in the jet discharge disk as recited in claims 4-6. Regarding claim 7, it has been held that mere placement of the essential working parts of a device involves only routing skill in the art. Placing markings as recited in claim 14, would have been an obvious matter of design choice depending on user preferences.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haverstraw et al. in view of Ridenour.

The patent to Haverstraw et al. discloses the instant invention except for the switching device being automatically reset. The patent to Ridenour discloses that the prior art teaches nozzles comprising timers to produce a desired spray mode for a period of time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Haverstraw et al. by replacing the switching device of Haverstraw et al. with a switching device comprising a timer as taught by Ridenour to spray in a certain mode for a desired period of time.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haverstraw et al. in view of Joubran.

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The patent to Haverstraw et al. discloses the instant invention except for the seal as recited. The patent to Joubran teaches a shower head comprising seals 111 within the housing to prevent leakages. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Haverstraw et al. by adding a seal as recited in order to prevent leaks as taught by Joubran.

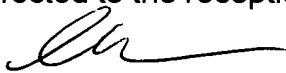
***Allowable Subject Matter***

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Harmony, Neilbrook et al., Rundzaitis, and Wong are pertinent to Applicant's invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.



Davis Hwu